

# Rewards program agreement

Simon® American Express® Credit Card

## Important Information About The Program and This Agreement.

- Your Simon® American Express® Credit Card from Cardless is issued solely by First Electronic Bank ("FEB"), Member FDIC. This Simon American Express Credit Card Program Agreement is offered through Cardless, Inc. ("Cardless"). This document describes how the Simon Credit Card rewards program works and is an agreement between you and Cardless. You agree that use of your cardholder account or any feature of this rewards program indicates your acceptance of the terms and conditions of this agreement. In this document, the following words have special meanings:
  - "Agreement" means this document.
  - "Program" means this Simon American Express Credit Card Program Agreement.
  - "Card Account" means your credit card account that is linked to the Program.
  - "Card" means any credit card or account number used to access your Account.
  - "We," "us," "our," and "Cardless" mean Cardless, Inc. and its affiliates.
  - "Simon" means Simon Management Associates II, LLC and its affiliates.
  - "Redeemable Statement Credits" or "Statement Credits" are the rewards you earn under the Program and are reflected in your Rewards Account balance viewable in the Cardless mobile app or Cardless website.
  - "Transactions" means any purchase or return for eligibility for reward benefits. Payments, reward redemptions, unauthorized, or disputed transactions are not counted toward the 5 transactions per billing cycle.

- Cardless may make changes to the Program and the terms and conditions of this Agreement at any time. For example, Cardless may add new terms or delete terms or change how you earn Statement Credits or other rewards in the Program.
- Cardless may temporarily prohibit you from earning Statement Credits with your Card or from benefiting from any features of the Program.
- Cardless may supplement this Agreement with additional terms, conditions, and disclosures that will be considered part of this Agreement.
- Statement Credits earned in the Program are generally posted to your rewards account at the end of each Card account statement cycle and no later than 12 weeks after the end of each billing cycle on your Account.
- Cardless may refer to this Agreement as the “Program Terms and Conditions” in communications about the Program and in supplemental terms, conditions, disclosures, and agreements.

THIS AGREEMENT CONTAINS AN ARBITRATION PROVISION PURSUANT TO THE FEDERAL ARBITRATION ACT AND WAIVER OF YOUR RIGHT TO JOIN A CLASS ACTION. YOU HAVE THE RIGHT TO REJECT THE ARBITRATION AGREEMENT AS SET FORTH BELOW WITHIN 30 DAYS OF BEING ACCEPTED INTO THE PROGRAM.

## **How You Can Earn Redeemable Statement Credits**

As set forth below, you will earn Redeemable Statement Credits on purchases of products and services, minus returns, refunds, or disputed charges (collectively, the “Eligible Purchases”) made with a Card by you or an authorized user (if applicable) on your Card Account. To qualify to earn any of the rewards listed below, you must make at least 5 (five) Transactions each billing cycle. Redeemable Statement Credits are earned as follows:

- **5% Back Earning.** You will earn 5% back for Eligible Purchases made at Simon properties using your Simon Credit Card, subject to the below Calendar Year Purchase Limitation. Participating Online Retailers for 5% Back: For the most current list of participating Online Retailers where you can earn 5% back please

visit [cardless.com/cards/simon/benefits](https://cardless.com/cards/simon/benefits). For the purposes of this rewards program, Simon properties include all Simon retail properties in the United States and its territories. For the current list of Simon properties, please visit [simon.com/mall](https://simon.com/mall). Please note that gift cards purchased and/or any other transactions made at a Simon Guest Services or the Management Office located within a Simon property are excluded from the 5% earning category. Calendar Year Purchase Limitation: There is a 5% rewards-earning purchase limitation of \$10,000. Eligible Purchases that is awarded 5% back is subject to a rewards-earning purchase limitation of \$10,000. Once you make \$10,000 of Eligible Purchases in the 5% back category, then any Eligible Purchases beyond \$10,000 in a calendar year will earn 1% back in any statement cycle in which you make at least 5 (five) Transactions,

- Gift cards/certificates purchased through Cardless. Gift cards/certificates purchased through Cardless via the Cardless app using your Simon Credit Card allow you to earn back Redeemable Statement Credits. The specific % back depends on the merchant and is displayed in the Cardless app at the time of your gift card purchase.. Your account must be open, current, and in good standing to purchase gift cards/certificates through Cardless. Additionally, you must have a verified bank account linked to your Cardless credit card account to make purchases of gift cards/certificates through Cardless. Please note that making an Eligible Purchase of a gift card or gift certificate through Cardless using your Simon Credit Card will not earn additional rewards; the associated reward amount for the gift card or gift certificate purchase will be shown at the time of purchase of that gift card/certificate in the Cardless app. Gift cards/certificates purchased through Cardless are valid at participating merchants only and are subject to the terms and conditions set by the merchant who issues the gift card/certificate. Expiration policies and non-usage fees may apply, if permitted by law, and are determined at the discretion of the issuer. Gift cards/certificates are not eligible to be returned or for refund. If a gift card/certificate is used without your permission, the value will not be restored, nor will a credit be issued on your account. Gift cards/certificates are only able to be delivered to a valid email address. Cardless is not responsible for delivery to an incorrectly entered email address. Occasionally, when purchasing a gift card/certificate, ID confirmation or verification may occur to keep your account secure. Cardless reserves the right to limit the quantity and purchase amount a cardholder may purchase. Cardless is not affiliated with the issuer of the gift card/certificate.

- 1% Back Earning. You will earn 1% back on all other Eligible Purchases, including the purchase of gift cards, excluding gift cards/ certificates purchased through the Cardless website or mobile app. See [cardless.com/faq](https://cardless.com/faq) for more details.
- The dollar amount of Redeemable Statement Credits will be rounded down to the nearest penny based upon the dollar amount of the associated transaction. Redeemable Statement Credits are earned after enrollment in this Program, and no Redeemable Statement Credits will be provided retroactively (including if you are in default under the Cardholder Agreement).

## **Merchant Identifiers**

Merchants who accept American Express cards are assigned a merchant identifier, which is determined by the merchant or its processor in accordance with American Express procedures. We use merchant identifiers for the purpose of making rewards offers to you. Based on information supplied by the merchant, we may also use location-based services to determine whether the merchant is located in a Simon center. Please note: We make every effort to include all relevant merchant identifiers located in Simon centers in our rewards categories. However, even though a merchant is located in a Simon center, the merchant's address on record may not be listed at a Simon center. When this occurs, purchases with that merchant will not be recognized for rewards. Purchases submitted by you, an authorized user, or the merchant through third-party payment accounts, mobile or wireless card readers, online or mobile digital wallets, or similar technology will not qualify in a rewards category if the technology is not set up to process the purchase in that rewards category.

## **Transactions That Do Not Qualify for Redeemable Statement Credits**

Cash advances, including purchases of cash equivalents of any kind, balance transfers, convenience check amounts, purchases we believe to have been made for commercial purpose, account fees (as defined in the Cardholder Agreement), interest charges, credit

insurance, gambling fees, credit protection, debt cancellation charges, and unauthorized or fraudulent transactions do not qualify as Eligible Purchases and are not eligible for Redeemable Statement Credits. Casino gambling chips, off-track wagers, lottery tickets, and bets or wagers transmitted over the internet or through a mobile application do not qualify as Eligible Purchases and are not eligible for Redeemable Statement Credits.

Any purchases of cryptocurrency, including bitcoins, litecoins, non-fungible tokens (NFTs), yield farming tokens, transactions on cryptocurrency exchanges, and any similar cryptocurrency-type transactions do not qualify as Eligible Purchases and are not eligible for Redeemable Statement Credits. We reserve the right to determine whether a purchase is deemed a crypto-related transaction.

## **Redeeming Your Rewards**

For information about the amount of Redeemable Statement Credits available for redemption, please view your rewards balance in the Cardless mobile app or through the Cardless website.

### **Redeeming for Statement Credits.**

Redeemable Statement Credits are applied to the outstanding balance on your Card Account. You are still required to make any minimum payment due on your Card Account. The maximum amount of Redeemable Statement Credits available for redemption at any given time will therefore be reduced by the amount of the minimum payment due on your Card Account at that time.

### **Redeeming for Cash Rewards.**

You can redeem Redeemable Statement Credits for a check made payable to you after your account has been open for at least 60 days. The minimum redemption amount for a check to be issued is \$25. The check can only be sent to your address on record and will be mailed within 2 to 5 weeks of redemption. All cash redemptions are final. Additionally, your account must be current and in good standing for at least 60 days to be able to be issued a cash reward.

**Negative Rewards Balance.**

In the event that you make a Redeemable Statement Credit or redeem for Cash Rewards and then subsequently have any rewards transactions that are subject to a refund, reversal, chargeback, or other credit, you may end up with a negative balance in your Rewards Account. If you have a negative Rewards Account balance, you authorize Cardless, at Cardless's discretion, to charge your Card Account the dollar amount necessary to bring your Rewards Account balance to zero based on the lowest current redemption rate for a rewards transaction. In the event that Cardless charges your Card Account for the amount of the negative rewards balance, that amount will be added to your outstanding principal balance and will be reflected on the next billing statement.

**How You Could Be Prohibited From Earning or Redeeming Statement Credits**

We may temporarily prohibit you from earning or redeeming Redeemable Statement Credits or any cash rewards if you do not make at least the minimum payment on your account within 30 days of the due date or if we suspect that you have engaged in fraudulent activity related to your Account or the Program. You can begin earning or redeeming Redeemable Statement Credits again after your Account becomes current or when we no longer suspect fraud or misuse of the Account or this Program.

We may prohibit you from earning or redeeming Redeemable Statement Credits or cash rewards if we suspect that you have misused the Program in any way, for example (i) by repeatedly opening or otherwise maintaining credit card accounts for the purpose of generating rewards; (ii) by manufacturing spend for the purpose of generating rewards; or (iii) by engaging in any other activity which we believe constitutes rewards abuse or gaming or if you misuse your card account by failing to comply with the terms of the Cardholder Agreement.

**How You Could Lose Your Redeemable Statement Credit**

You will immediately lose all Redeemable Statement Credits or any other rewards balances if your Card Account is closed for any of the following reasons which constitute misuse of the Card Account:

- You do not make at least the minimum payment on your Card Account within 60 days of the due date;
- You fail to comply with this or other agreements you have with Cardless;
- You fail to comply with the terms of the Cardholder Agreement;
- We believe you may be unwilling or unable to pay your debts on time;
- You file for bankruptcy;
- We believe that you have engaged in fraudulent activity related to your Account or this Program; or
- We believe that you have misused this Program in any way, for example by (i) by repeatedly opening or otherwise maintaining credit card accounts for the purpose of generating rewards; (ii) by manufacturing spend for the purpose of generating rewards; or (iii) by engaging in any other activity which we believe constitutes rewards abuse or gaming.

If your Card Account is closed for any other reason, you will not lose, and may redeem or retain any accrued Redeemable Statement Credits.

## **Information Sharing and Privacy**

For important information and details regarding our use and sharing of your personal information, including your ability to restrict or limit sharing of information, please refer to Cardless's Privacy Policy available at [www.cardless.com/privacy-policy](http://www.cardless.com/privacy-policy) and the Simon® American Express® Credit Card Privacy Notice available at [www.cardless.com/simonprivacy](http://www.cardless.com/simonprivacy).

## **Other Important Information You Should Know**

Redeemable Statement Credit cannot be transferred by operation of law such as by inheritance, in bankruptcy, or in connection with a divorce.

Cardless reserves the right, in its sole discretion, to suspend, cancel, or modify the Program at any time and for any reason and without prior notice. Administrative services may be provided by third-party service providers. Cardless reserves the right, in its sole discretion, to add, delete, change, or revise this Agreement, including, but not limited to, revising or adding qualifications for participation in the Program, Program features, or

Program procedures; the imposition or discontinuance of special promotions or offers, additions, deletions, or revisions of rewards offered; revisions of caps; limitations, or expiration periods; revisions to disqualifying events; or the imposition of new, revised, or additional Program terms and conditions. We may temporarily or permanently disqualify you from participating in the Program and/or adjust or cause to be forfeited any or all Redeemable Statement Credits accrued as a result of your abusive behavior, fraud, misrepresentation, any violation of law, or any other violation of any of the terms or conditions set forth herein, in each case as determined by us in our sole discretion. Discrepancies about Redeemable Statement Credits earnings are not treated as credit card billing disputes. Neither we nor Simon nor any of our third-party service providers, including each of such party's respective employees, officers, affiliates, or agents, will be liable to you for any action or inaction any of them take or fail to take with respect to the Program or any changes in these terms and conditions.

Awarding of Redeemable Statement Credits may qualify as taxable income to you. When laws require us to do so, we may report the Redeemable Statement Credits earned as income to the Internal Revenue Service, as well as state and local tax authorities. By using this Program, you are responsible for paying any federal, state, or local taxes you owe, or other connected fees or gratuities. Should we be required to report taxes, tax reporting, if any, will be made to the tax ID number of the Card account holder, based on our records.

You agree to indemnify and hold Simon, Cardless, and our third-party service providers and each of such party's respective affiliates, directors, officers, employees, agents, and contractors harmless from and against any loss, damage, liability, cost, or expense of any kind (including attorneys' fees) arising from your or an authorized user's: (i) participation in the Program; (ii) any fraud or misuse of the Program; (iii) violation of this Agreement; and/or (iv) violation of any applicable law or the rights of any third-party. To the maximum extent permitted by law, neither Simon, Cardless nor any of our third-party service providers, including each of such party's respective employees, officers, affiliates, or agents, assume any responsibility for, and will not be liable for, any financial loss, personal injury, property loss or damage, other loss, accident, delay, inconvenience, or irregularity which you may suffer by reason of any act, default, non-performance, or wrongful, careless, negligent, or unauthorized act or omission of Simon, Cardless, or any Program supplier, including each of such party's respective employees, officers, affiliates, or agents, or any other third-party. In no event shall



Simon, Cardless, or any of our affiliates or agents be responsible or liable to you, or anyone claiming through you or on your behalf, for any indirect, special, exemplary, punitive, or consequential damages, including, without limitation, lost revenue, lost profits, or lost opportunity arising out of or relating to any of the acts or omissions of Simon, Cardless, or any of our respective affiliates or agents, or otherwise in connection with or relating to the Program or our administration, or that result from the use of or inability to use the Program, even if Simon or Cardless have been made aware of the possibility of such damages. Neither Simon, Cardless, nor any of our third-party service providers, including each of such party's respective employees, officers, affiliates, or agents, will be responsible for any damage, loss or expense of any nature resulting from the usage of any redemption, defects in any redemption, or from any cancellation irregularity or mishap affecting the redemption received through the Program. In addition, Simon and Cardless make no warranty or representation either expressed or implied, and expressly disclaim any and all liability and damages with respect to type, quality, or fitness for use of goods or services provided through this Program or otherwise obtained by you in connection with the Program or through the use of Redeemable Statement Credits. IN NO EVENT SHALL SIMON, CARDLESS, OR OUR AFFILIATES, AGENTS, DIRECTORS, EMPLOYEES, SUPPLIERS, OR LICENSORS BE LIABLE TO YOU FOR ANY CLAIMS, PROCEEDINGS, LIABILITIES, OBLIGATIONS, DAMAGES, LOSSES OR COSTS IN AN AMOUNT EXCEEDING THE AMOUNT YOU PAID TO US HEREUNDER OR \$100.00, WHICHEVER IS GREATER.

You agree to notify us promptly upon the receipt of your Account statement of any errors relating to the earning of Redeemable Statement Credits but in no event later than sixty (60) days after the date of the transaction. We reserve the right (but are not required) to correct inaccurate values represented in your Account and to adjust Redeemable Statement Credit values at our sole discretion. If we do not credit, or if we improperly deny, a Redeemable Statement Credit to which you were otherwise entitled, then your exclusive remedy will be the issuance of the improperly denied Redeemable Statement Credit, if available, or such other alternative benefit as we in our sole discretion may determine. Neither we nor any of our affiliates, agents, or representatives have any other or additional liability to you or any other person for such error(s), subject to applicable law.

All trademarks, service marks, and trade names used by Cardless and Simon in this Program are property of their respective owners. No use of these may be made without the prior written authorization of Cardless or Simon, as applicable.

Amex Offers: American Express Travel Related Services Company Inc. is solely responsible for Amex Offers, and is not affiliated with Cardless, FEB, Simon or their affiliates. All offers are subject to terms and conditions. Visit [www.americanexpress.com/en-us/benefits/offers/](http://www.americanexpress.com/en-us/benefits/offers/) for details.

This Agreement constitutes the entire agreement between you and us with respect to the subject matter described herein, and supersede all prior agreements or representations, written or oral, concerning such subject matter; provided, however, nothing herein modifies the terms and conditions of the Cardholder Agreement. You may not assign any of your rights or obligations under this Agreement, in whole or in part, without our prior written consent. We may assign our rights and/or obligations under these Terms, in whole or in part, without your consent. We may waive or delay enforcing any of our rights herein without losing them. Neither we nor our service providers are responsible for any disputes between you and a merchant relating to a transaction or goods or services. Any claim or dispute arising from or relating to this Agreement or to the Program will be governed by and construed in accordance with California law (without regard to its conflicts of law principles) and, as applicable, federal law.

## Earning Redeemable Statement Credits Through Referral Programs

From time to time, we may offer you the ability to participate in a program or campaign that rewards you for referring friends and family to Cardless ("**Referral Program**"). Each Referral Program is designed to provide Redeemable Statement Credits to you for successfully referring your friends and family members (each, a "**Referred User**") to one or more Cardless Cards, according to these Terms and any other rules, limits, terms, and conditions applicable to a Referral Program ("**Referral Program Terms**"). In order to earn Redeemable Statement Credits for a referral: (1) you must log in to your account within the Cardless mobile application or web application to access your unique referral link and provide it to the Referred User, (2) the Referred User must use your unique referral link when he or she applies for a Card, (3) the Referred User must not be a current or

former Cardless cardholder; and (4) the Referred User must be approved for and obtain a Cardless Card before the expiration date of the Referral link. If you are eligible to earn Redeemable Statement Credits for a referral and these steps are successfully completed, we will credit the Redeemable Statement Credits you earn to your rewards account. The amount of Redeemable Statement Credits you may earn for each referral will typically be set forth in the advertisement, terms, or other materials describing the Referral Program in effect at any given time, which you can access by logging in to your account within the Cardless mobile application or web application ("**Referral Program Materials**"). Redeemable Statement Credits you earn under a Referral Program will typically be credited to your rewards account within 90 days after you make a successful referral in accordance with these Terms. Your Card must be in good standing at the time we credit the Redeemable Statement Credits or you will forfeit the Redeemable Statement Credits. You may earn Redeemable Statement Credits for referring up to 10 friends who are approved for a Cardless Card within each calendar year.

#### **Limitations, Terms and Conditions.**

You may not earn Redeemable Statement Credits for a referral in combination with any other monetary offer, award, or promotion. You agree that you will refer only individuals that you know personally to Cardless. You will not engage in spamming, harassment, unsolicited communication or other unfair or otherwise unwarranted or inappropriate treatment of potential Referred Users. You will not compensate people to sign up with your unique referral link. We will determine your eligibility to participate in any Referral Program in our sole discretion. Any referral you make is subject to our verification. We may require you to provide additional information to verify your eligibility to earn Redeemable Statement Credits for the referral, and you will not earn the Redeemable Statement Credits if you do not provide the requested information within the required timeframe. We reserve the right to withhold, delay, invalidate or decline to issue Redeemable Statement Credits to your rewards account for any reason, subject to applicable law.

## **ARBITRATION; CLASS ACTION AND JURY PROVISION WAIVER**

You have the right to opt out of arbitration as set forth below. Subject to the preceding sentence, the following provisions will apply:

1. For any and all controversies, disputes, demands, claims, or causes of action (including the interpretation and scope of this section and the arbitrability of the controversy, dispute, demand, claim or cause of action) between any party to this Agreement or relating to the Programs ("Covered Disputes"), each party agrees to resolve such Covered Disputes exclusively through binding and confidential arbitration. The arbitration will exclusively take place in the federal judicial district located in San Francisco, California. Notwithstanding this agreement to arbitrate, either party may seek emergency equitable relief in a federal or state court located in the federal judicial district in San Francisco, California in order to maintain the status quo pending arbitration, and each party hereby agrees to submit to the exclusive personal jurisdiction of the courts located therein for such purpose. A request for interim measures will not be deemed a waiver of the obligation to arbitrate.
2. If you do not want the requirement to arbitrate a Covered Dispute to apply to you, you may opt out of such arbitration by sending us written notice of your decision within thirty (30) days of the date we accept you in the Program. Such notice must clearly state that you wish to cancel or opt out of the arbitration requirement of this Section K. It should include your name, address, account number, and your signature and must be mailed to: Cardless, Inc., 350 Townsend Street #610, San Francisco, CA, 94107. If you opt out of arbitration, this arbitration provision will not apply to you, excluding subsection 5 of this Section K,, which will continue to apply to you to the greatest extent permitted by law.
3. Each arbitration, including the selection of the arbitrator, will be administered by the American Arbitration Association ("AAA"), or such other administrator as you and we may mutually agree to according to the Consumer Arbitration Rules ("AAA Rules"). For a copy of the procedures, to file a Claim or for other information about this organization, contact it at: AAA, 335 Madison Avenue, New York, NY 10017, or at its website [www.adr.org](http://www.adr.org). To the extent that there is any variance between the AAA Rules and this section, this section will control. Arbitrator(s) must be a

member of the state bar where the arbitration is held, with expertise in the substantive laws applicable to the subject matter of the Covered Dispute. You and we each agree that in this relationship (i) you and we are participating in transactions involving interstate commerce; (ii) the arbitrator shall decide any dispute regarding the enforceability of this section; and (iii) each arbitration is governed by the provisions of the Federal Arbitration Act (Title 9 of the United States Code), and, to the extent any provision of that Federal Arbitration Act is inapplicable, unenforceable or invalid, the laws of the state of California shall apply. To find out how to initiate an arbitration, please call any office of the AAA or visit [www.adr.org](http://www.adr.org).

4. Each party agrees to the following: (i) no class or similar group arbitration or claim will be permitted; (ii) the arbitration will be confidential, and no party may disclose the existence, content or results of any arbitration, except as may be required by law or for purposes of enforcement of the arbitration award; (iii) subject to any limitations of liability in this Agreement, the arbitrator may award any individual relief or individual remedies that are expressly permitted by applicable law; and (iv) each party will pay its own attorneys' fees and expenses, unless there is a statutory provision that requires the prevailing party to be paid its fees and litigation expenses and the arbitrator awards such attorneys' fees and expenses to the prevailing party, and, in such instance, the fees and costs awarded will be determined by the applicable law.
5. All parties understand and agree that by agreeing to this Agreement, EACH PARTY IS GIVING UP HIS/HER/ITS RIGHT (I) TO HAVE A TRIAL BY JURY; (II) TO HAVE A COURT RESOLVE ANY DISPUTE BETWEEN US, SUBJECT TO THE TERMS HEREIN AND IF YOU HAVE NOT OPTED OUT OF ARBITRATION PURSUANT TO THE TERMS HEREIN; AND (III) TO SERVE AS A REPRESENTATIVE, AS A PRIVATE ATTORNEY GENERAL, OR IN ANY OTHER REPRESENTATIVE CAPACITY, OR TO PARTICIPATE AS A MEMBER OF A CLASS OF CLAIMANTS, IN ANY ARBITRATION OR LAWSUIT INVOLVING ANY DISPUTE BETWEEN US.
6. All statutes of limitations applicable to any Covered Dispute apply to any arbitration between you and us. This arbitration provision shall survive: (i) the termination of this Agreement; (ii) the bankruptcy of any party; (iii) any transfer, sale, or assignment of your account; (iv) closing of the account; or (v) any other relationship between you and us. This section constitutes the entire agreement between you and us related to arbitration of a Covered Dispute and supersedes all prior arrangements and other communications concerning dispute resolution. With

the exception of the provision of this section prohibiting arbitration on a class or collective basis, if any part of this arbitration provision is deemed to be invalid, unenforceable, or illegal, then the balance of this arbitration provision will remain in effect and will be construed in accordance with its terms as if the invalid, unenforceable, or illegal part was not contained herein.

7. You and we each agree to take all steps and execute all documents necessary for the implementation of arbitration proceedings. The arbitrator may hear and rule on appropriate dispositive motions as part of the arbitration proceeding, such as motions for judgments on the pleadings, summary judgment, or partial summary judgment. The AAA, the arbitrators, you, and we, must, to the extent feasible, take any necessary action to ensure that an arbitration proceeding, as described in this section, is completed within 180 days of filing the Covered Dispute with the AAA.